THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.1373 of 2006

Date:27.01.2006

Uram Suresh Kumar.

----------Petitioner

The Chief Engineer (O & M Stage I) and others.

----------Respondents

ORDER:

The petitioner is an employee of the respondents-Corporation. He has been placed under suspension, through order, dated 02.12.2005, with effect from 15.11.2005-FN, on the ground that he has been arrested and kept in jail, in a Criminal Case against him. The petitioner challenges the order of suspension, on the ground that the arrest was in relation to a matter, which has nothing to do with the performance of his duties, in the respondents-Corporation.

Sri T.V.S.Prabhakara Rao, the learned counsel for the petitioner submits that whatever may have been the justification for the respondents in placing the petitioner under suspension, they are under obligation to review the matter and to see whether it is necessary to continue him under suspension. He submits that the petitioner is not found to have resorted to any act of misconduct, nor the allegations in the Criminal Case have anything to do with the performance of the duties of the petitioner.

The learned Standing Counsel for the respondents, on the other hand, submits that the petitioner was accused of offence under Section 498-A I.P.C. and till the Criminal Case is disposed of, he cannot be reinstated into service.

Regulation 11(b) of the Andhra Pradesh State Electricity Board

Employees Discipline and Appeal Regulations, mandate that whenever an employee is kept under imprisonment for a period exceeding 48 hours, he shall be placed under suspension. Admittedly, the petitioner was kept under imprisonment for a period exceeding 48 hours. Therefore, no exception can be taken to the order, dated 02.12.2005, placing the petitioner under suspension. Where the suspension of an employee is on the basis of the detention in prison for a particular period or on account of pendency of a Criminal Case, the matter needs to be reviewed from time to time. If the charge in the Criminal Case has nothing to do with the performance of the duties of an employee and he is acquitted in the Criminal Case after about 5 or 6 years, the employer would not only be under obligation to pay the entire emoluments after reinstatement, but would also be denied the benefit of the services of such employee. It is in this context that the Government of Andhra Pradesh issued guidelines, in the matter of reviewing the cases, where employees are placed under suspension in such cases. A Division Bench of this Court in its Judgment in ***P.Rajender v. Union of India and another,*** held, in this context, as under:

> "8. Suspension pending investigation, inquiry or trial is interim in nature. The aforementioned rule clearly suggests that an order of suspension is not required to be passed only because it will be lawful to do so. An application of mind on the part of the competent authority is *sine qua non* for passing such order of suspension. Before passing of an order of suspension, therefore, it is expected that the appropriate authority shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest may suffer if the delinquent officer is not placed under suspension".

Review of the case would, in fact, have been in the interest of the employer also, and unless anything serious, particularly having a direct bearing on the performance of duties is found, the employer can consider the feasibility of reinstating the employee.

For the foregoing reasons, the Writ Petition is disposed of, directing that the respondents shall review the case of the petitioner and take a decision, as to whether it is in the interests of the Corporation to continue the petitioner under suspension, within a period of two (2) months from today. There shall be no

order as to costs.

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27.01.2006

Note: Issue C.C. in one week.

(B/o)

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